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M A N U A L

OF

EXTRADITION.

SINGAPORE:

PRINTED AT THE GOVERNMENT PRINTING OFFICE.

1885.

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Manual

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Abgegeben v. d.
Bibliothek d.
Auswärtigen Amts.

g. n. 1814

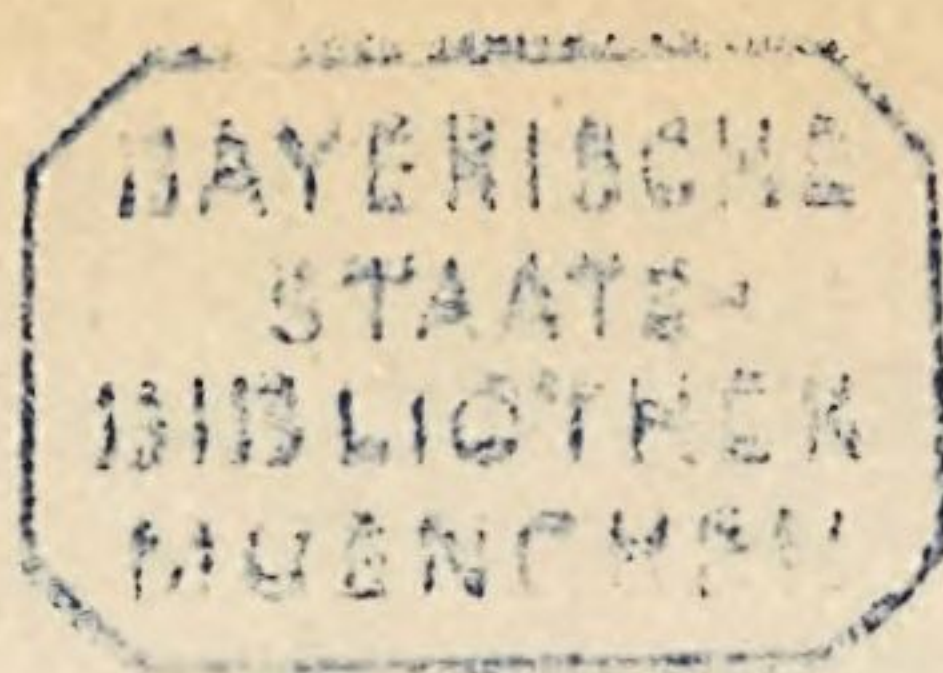


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EXTRADITION.

REQUISITIONS for the Surrender of Fugitive Criminals are made to this Government from :—

- A. (a)* Foreign States with which we have Extradition Treaties, *e.g.*, France, Netherlands, (see list, page 7).
(b) the Eastern Colonies or Dependencies of these Foreign States, *e.g.*, Netherlands India and French Cochin China.

These cases come under the Extradition Acts of 1870 and 1873, (33 and 34 Vic. c. 52 and 36 and 37 Vic. c. 60).

B.—British Possessions, *e.g.*, India, Burmah, Ceylon, Hong-kong, and Labuan.

To these cases, the Fugitive Offenders Act of 1881 applies (44 and 45 Vic. c. 69).

Note.—Any part of Her Majesty's dominions under one legislature is, for the purposes of this Act, one British possession, *e.g.*, the Straits Settlements.

C.—Foreign States in the case of which the Extradition Acts of 1870 and 1873 do not apply, *e.g.*, China, Siam, the States of the Malay Peninsula whether independent or under British Protection, and the territories administered by the Rajah of Sarâwak and the British North Borneo Company respectively.

In these cases the procedure is under the Queen's Order in Council of the 26th of June, 1879, as amended by the Orders in Council of the 31st of December 1883 and the 29th of November 1884.

(A) EXTRADITION ACTS OF 1870 AND 1873.

The following is the procedure :—

- 1.—Where the fugitive criminal has escaped from a Colony or Dependency of the Foreign State on behalf of which the requisition is made the requisition for surrender may be made by some one recognised by the Governor as the Governor of such Colony or dependency. In other cases the requisition may be made by a person recognised by the Governor as a Consul-General Consul or Vice-Consul or Consular Officer of the Foreign State.
- 2.—The Governor issues an Order to a * Police Magistrate, (Form A).
- 3.—On receipt of the Order the Magistrate issues a Warrant (Form B), if the evidence is such as would in his opinion justify the issue of the warrant had the crime been committed or the criminal convicted in the Colony.
- 4.—Or, without the Governor's Order, the Magistrate may, on sufficient evidence, issue a Warrant (Form C), but must forthwith send a report of the fact of such issue, with the evidence and information or certified copies thereof, to the Governor, and may remand the Prisoner, when brought, up for a reasonable time pending the receipt of the Governor's Order.
- 5.—When the prisoner is brought up the Magistrate hears the case in the same manner and has the same jurisdiction and powers, as near as may be, as if the Prisoner were brought before him charged with an offence committed in the Colony. If the foreign warrant is duly authenticated and such evidence is produced as (sub-

* NOTE.—See the Extradition Ordinance 1877, (IV of 1877), page 25.

ject to the provisions of the Act) would justify committal according to the law of the Colony if the offence had been committed in the Colony, or if such evidence of conviction of an extradition crime in the Foreign State is produced as (subject to the provisions of the Act) would according to the law of the Colony prove that the Prisoner was convicted of such crime, the Magistrate must commit the Prisoner to prison (Form D), otherwise he discharges him.

6.—On committal the Magistrate must (a) send to the Governor a certificate of the committal and a report upon the case, and (b) inform the criminal that he will not be surrendered until after the expiration of fifteen days, and that meantime he can apply for a writ of *Habeas Corpus*.

Note.—Foreign Warrants and depositions or statements on oath or affirmations taken in a Foreign State and copies of such depositions statements or affirmations and certificates of, or judicial documents stating, the fact of conviction may be received in evidence if authenticated in the manner provided for the time being by law or if authenticated in the manner provided by Section 15 of the Act of 1870 (see page 13).

(B) FUGITIVE OFFENDERS ACT 1881, (44 AND 45
VIC. c. 69).

Under this Act, any person accused of having committed an offence in any part of Her Majesty's Dominions there punishable by at least twelve calendar months' rigorous imprisonment may if found in this Colony be apprehended and returned, notwithstanding that

the offence is not an offence by the law of this Colony.

The procedure is as follows :—

1. (a) Where a Warrant has been issued in another part of Her Majesty's Dominions for the arrest of a fugitive who is or is suspected to be in or on the way to the Colony, any Judge of the Supreme Court, or the Governor, if satisfied that the Warrant was issued by some one having lawful authority to issue it, may endorse such Warrant [Form E] and the criminal may be arrested and brought before a Police Magistrate.
- (b) Or even although no such Warrant has been issued, any Police Magistrate or Justice of the Peace of the Colony may, on such information and under such circumstances as would in his opinion justify the issue of a Warrant if the offence had been committed within his jurisdiction, issue a Provisional Warrant, but he must forthwith send a report of the issue together with the information, or a certified copy, to the Governor, who may if he thinks fit order the prisoner's discharge. If not discharged the prisoner may be from time to time remanded for such reasonable time not exceeding seven days at any one time as under the circumstances seems requisite for the production of an endorsed Warrant.
- 2.—The fugitive when apprehended must be brought before a Police Magistrate who (subject to the provisions of the Act) is to hear the case in the same manner and have the same jurisdiction and powers, as near as may be, (including power to remand and admit to bail), as if the offence was committed in the Colony.
- 3.—If the endorsed Warrant is duly authenticated and such evidence is produced as raises a strong or probable

presumption of guilt, the Magistrate must commit (Form D) the fugitive to prison to await his return, and must forthwith send a certificate of the committal and such report as he thinks fit to the Governor, and inform the fugitive that he will not be surrendered until after the expiration of fifteen days, and that in the meantime he has a right to apply for a Writ of *Habeas Corpus*.

- 4.—On the expiration of fifteen days, or if a Writ of *Habeas Corpus* is issued then after the final decision of the Court on the case, the Governor may issue his Warrant for the extradition of the fugitive [Form F].
 - 5.—Under this Act depositions taken in the absence of the fugitive are admissible in evidence (See section 29).
-

(C) ORDERS IN COUNCIL OF 26TH JUNE, 1879,
31ST DECEMBER, 1883, AND 29TH NOVEMBER, 1884.

The procedure is as follows :—

- 1.—A requisition is made to the Governor by any person recognised by him as an authorised Minister or Officer, Consul or Vice-Consul of the Foreign State.
- 2.—The Governor issues an Order to any Police Magistrate to enquire into the charge [Form G].

Note.—The Police are justified in arresting a man without a warrant, on reasonable grounds of suspicion of his having done that which would be a felony if committed within the jurisdiction of the Colony. On any such arrest being made, the accused should be taken without delay before a Magistrate, to whom an application should be made for a remand, pending the receipt of the Order from the Governor.

- 3.—The Magistrate receiving this Order has the same powers as if the offence was committed within his jurisdiction.
- 4.—If the evidence adduced is such as would be sufficient to justify apprehension, if the crime had been committed within his jurisdiction, the Magistrate issues a Warrant for the apprehension of the fugitive containing a Memorandum that it is issued under the Order in Council [Form H].
- 5.—When the fugitive is arrested he is to be brought forthwith before a Police Magistrate within whose jurisdiction the arrest is made. If that Magistrate is not the one who issued the Warrant, the latter must at the request of the former send him the depositions and documents on which the Warrant was issued or certified copies thereof.
- 6.—The Magistrate before whom the fugitive is brought is to deal with the case in the same manner as if the fugitive were charged with an indictable offence committed within his jurisdiction and if the evidence would justify committal for trial, the Magistrate commits to prison, [Form D] but otherwise discharges. If he commits he must inform the fugitive that he will not be surrendered until the expiration of fifteen days and that he may in the meantime appeal to any Judge of the Supreme Court.
- 7.—On committal, the Magistrate must forthwith report to the Governor, together with any remarks he thinks fit, and forward a copy of all depositions and documents used before him.
- 8.—The Governor may, after the expiration of the fifteen days or the decision of the Judge, order the surrender [Form I].

Note.—Depositions statements on oath or affirmations taken in a Foreign State and copies thereof may if duly authenticated be received in evidence. For the meaning of “duly authenticated” see Section 8 of the Order in Council of June 26th 1879, (page 44).

A doubt has been expressed whether depositions &c., not taken in the presence of the prisoner are admissible at the hearing before the Magistrate for the purpose of committal (see report of *REG. vs. SIRDAR KHAN* and others, Penang, 22nd and 23rd December, 1884), but there appears to be no good ground for such doubt.

LIST OF COUNTRIES TO WHICH THE EXTRADITION ACTS,
1870 AND 1873, APPLY.

- | | | |
|-----|--------------------|--|
| 1. | America, | ... Treaty signed, 9th August, 1842. |
| 2. | Austria-Hungary, | ... Treaty signed, 3rd December, 1873. |
| 3. | Belgium, | ... Treaty signed, 20th May, 1873.
Declaration signed, 23rd July, 1877. |
| 4. | Brazil, ... | ... Treaty signed, 13th November, 1872. |
| 5. | Denmark, | ... Treaty signed, 31st March, 1873. |
| 6. | France, | ... Treaty signed, 14th August, 1876. |
| 7. | Germany, | ... Treaty signed, 14th May, 1872. |
| 8. | Hayti, ... | ... Treaty signed, 7th December, 1874. |
| 9. | Italy, ... | ... Treaty signed, 5th February, 1873:
7th May, 1873. |
| 10. | Luxemburg, | ... Treaty signed, 24th November, 1880. |
| 11. | Netherlands, | ... Treaty signed, 19th June, 1874. |
| 12. | Salvador, | ... Treaty signed, 23rd June, 1881. |
| 13. | Spain, ... | ... Treaty signed, 4th June, 1878. |
| 14. | Sweden and Norway, | Treaty signed, 26th June, 1873. |
| 15. | Switzerland, | ... Treaty signed, 26th November, 1880. |
| 16. | Tonga, ... | ... Treaty signed, 29th November, 1879. |

Order in Council dated 30th November, 1882.

33 & 34 VICT. c. 52

(EXTRADITION ACT, 1870).

*An Act for amending the Law relating to the Extradition of
Criminals. [9th August, 1870.]*

WHEREAS it is expedient to amend the law relating to the surrender to foreign States of persons accused or convicted of the commission of certain crimes within the jurisdiction of such States, and to the trial of criminals surrendered by foreign States to this country :

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

PRELIMINARY.

Short title.

1. This Act may be cited as "The Extradition Act, 1870."

*Where arrangement for surrender of criminals made, Order
in Council to apply Act.*

2. Where an arrangement has been made with any foreign State with respect to the surrender to such State of any fugitive criminals, Her Majesty may, by Order in Council, direct that this Act shall apply in the case of such foreign State.

Her Majesty may, by the same or any subsequent Order, limit the operation of the Order, and restrict the same to fugitive criminals who are in or suspected of being in the part of Her Majesty's dominions specified in the Order, and render the operation thereof subject to such conditions, exceptions, and qualifications as may be deemed expedient.

Every such Order shall recite or embody the terms of the arrangement, and shall not remain in force for any longer period than the arrangement.

Every such Order shall be laid before both Houses of Parliament within six weeks after it is made, or, if Parliament be not then sitting, within six weeks after the then next meeting of Parliament, and shall also be published in the "London Gazette."

Restrictions on surrender of criminals.

3. The following restrictions shall be observed with respect to the surrender of fugitive criminals :—

- (1.) A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove to the satisfaction of the police magistrate or the court before whom he is brought on *Habeas Corpus*, or to the Secretary of State, that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character :
- (2.) A fugitive criminal shall not be surrendered to a foreign State unless provision is made by the law of that State, or by arrangement, that the fugitive criminal shall not, until he has been restored or had an opportunity of returning to Her Majesty's dominions, be detained or tried in that foreign State for any offence committed prior to his surrender other than the extradition crime proved by the facts on which the surrender is grounded :
- (3.) A fugitive criminal who has been accused of some offence within English jurisdiction not being the offence for which his surrender is asked, or is undergoing sentence under any conviction in the United Kingdom, shall not be surrendered until after he has been discharged, whether by acquittal or on expiration of his sentence or otherwise :
- (4.) A fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison to await his surrender.

Provisions of arrangement for surrender.

4. An Order in Council for applying this Act in the case of any foreign State shall not be made unless the arrangement—
 - (1.) Provides for the determination of it by either party to it after the expiration of a notice not exceeding one year ; and,
 - (2.) Is in conformity with the provisions of this Act, and in particular with the restrictions on the surrender of fugitive criminals contained in this Act.

Publication and effect of Order.

5. When an Order applying this Act in the case of any foreign State has been published in the "London Gazette," this Act (after the date specified in the Order, or if no date is specified, after the date of the publication,) shall, so long as the Order remains in force, but subject to the limitations, restrictions, conditions, exceptions, and qualifications, if any,

contained in the Order, apply in the case of such foreign State. An Order in Council shall be conclusive evidence that the arrangement therein referred to complies with the requisitions of this Act, and that this Act applies in the case of the foreign State mentioned in the Order, and the validity of such Order shall not be questioned in any legal proceedings whatever.

Liability of criminal to surrender.

6. Where this Act applies in the case of any foreign State, every fugitive criminal of that State who is in or suspected of being in any part of Her Majesty's dominions, or that part which is specified in the Order applying this Act, (as the case may be), shall be liable to be apprehended and surrendered in manner provided by this Act, whether the crime in respect of which the surrender is sought was committed before or after the date of the Order, and whether there is or is not any concurrent jurisdiction in any court of Her Majesty's dominions over that crime.

Order of Secretary of State for issue of warrant in United Kingdom if crime is not of a political character.

7. A requisition for the surrender of a fugitive criminal of any foreign State, who is in or suspected of being in the United Kingdom, shall be made to a Secretary of State by some person recognised by the Secretary of State as a diplomatic representative of that foreign State. A Secretary of State may, by order under his hand and seal, signify to a police magistrate that such requisition has been made, and require him to issue his warrant for the apprehension of the fugitive criminal.

If the Secretary of State is of opinion that the offence is one of a political character, he may, if he think fit, refuse to send any such order, and may also at any time order a fugitive criminal accused or convicted of such offence to be discharged from custody.

Issue of warrant by police magistrate, justice, &c.

8. A warrant for the apprehension of a fugitive criminal, whether accused or convicted of crime, who is in or suspected of being in the United Kingdom, may be issued:—

- (1.) By a police magistrate on the receipt of the said order of the Secretary of State, and on such evidence as would in his opinion justify the issue of the warrant if the crime had been committed or the criminal convicted in England; and

- (2.) By a police magistrate or any justice of the peace in any part of the United Kingdom, on such information or complaint and such evidence or after such proceedings as would in the opinion of the person issuing the warrant justify the issue of a warrant if the crime had been committed or the criminal convicted in that part of the United Kingdom in which he exercises jurisdiction.

Any person issuing a warrant under this section without an order from a Secretary of State shall forthwith send a report of the fact of such issue, together with the evidence and information or complaint, or certified copies thereof, to a Secretary of State, who may if he think fit order the warrant to be cancelled, and the person who has been apprehended on the warrant to be discharged.

A fugitive criminal, when apprehended on a warrant issued without the order of a Secretary of State, shall be brought before some person having power to issue a warrant under this section, who shall by warrant order him to be brought and the prisoner shall accordingly be brought before a police magistrate.

A fugitive criminal apprehended on a warrant issued without the order of a Secretary of State shall be discharged by the police magistrate, unless the police magistrate, within such reasonable time as, with reference to the circumstances of the case, he may fix, receives from a Secretary of State an order signifying that a requisition has been made for the surrender of such criminal.

Hearing of case and evidence of political character of crime.

9. When a fugitive criminal is brought before the police magistrate the police magistrate shall hear the case in the same manner, and have the same jurisdiction and powers, as near as may be, as if the prisoner were brought before him charged with an indictable offence committed in England.

The police magistrate shall receive any evidence which may be tendered to show that the crime of which the prisoner is accused or alleged to have been convicted is an offence of a political character or is not an extradition crime.

Committal or discharge of prisoner.

10. In the case of a fugitive criminal accused of an extradition crime, if the foreign warrant authorising the arrest of such criminal is duly authenticated, and such evidence is produced as (subject to the provisions of this Act) would, accord-

ing to the law of England, justify the committal for trial of the prisoner if the crime of which he is accused had been committed in England, the police magistrate shall commit him to prison, but otherwise shall order him to be discharged.

In the case of a fugitive criminal alleged to have been convicted of an extradition crime, if such evidence is produced as (subject to the provisions of this Act) would, according to the law of England, prove that the prisoner was convicted of such crime, the police magistrate shall commit him to prison, but otherwise shall order him to be discharged.

If he commits such criminal to prison, he shall commit him to the Middlesex House of Detention, or to some other prison in Middlesex, there to await the warrant of a Secretary of State for his surrender, and shall forthwith send to a Secretary of State a certificate of the committal, and such report upon the case as he may think fit.

*Surrender of fugitive to foreign State by warrant of
Secretary of State.*

11. If the police magistrate commits a fugitive criminal to prison, he shall inform such criminal that he will not be surrendered until after the expiration of fifteen days, and that he has a right to apply for a writ of *Habeas Corpus*.

Upon the expiration of the said fifteen days, or, if a writ of *Habeas Corpus* is issued, after the decision of the court upon the return to the writ, as the case may be, or after such further period as may be allowed in either case by a Secretary of State, it shall be lawful for a Secretary of State, by warrant under his hand and seal, to order the fugitive criminal (if not delivered on the decision of the court) to be surrendered to such person as may in his opinion be duly authorised to receive the fugitive criminal by the foreign State from which the requisition for the surrender proceeded, and such fugitive criminal shall be surrendered accordingly.

It shall be lawful for any person to whom such warrant is directed and for the person so authorised as aforesaid to receive, hold in custody, and convey within the jurisdiction of such foreign State the criminal mentioned in the warrant; and if the criminal escapes out of any custody to which he may be delivered on or in pursuance of such warrant, it shall be lawful to retake him in the same manner as any person accused of any crime against the laws of that part of Her Majesty's dominions to which he escapes may be retaken upon an escape.

Discharge of persons apprehended if not conveyed out of United Kingdom within two months.

12. If the fugitive criminal who has been committed to prison is not surrendered and conveyed out of the United Kingdom within two months after such committal, or, if a writ of *Habeas Corpus* is issued, after the decision of the court upon the return to the writ, it shall be lawful for any judge of one of Her Majesty's Superior Courts at Westminster, upon application made to him by or on behalf of the criminal, and upon proof that reasonable notice of the intention to make such application has been given to a Secretary of State, to order the criminal to be discharged out of custody, unless sufficient cause is shown to the contrary.

Execution of warrant of police magistrate.

13. The warrant of the police magistrate issued in pursuance of this Act may be executed in any part of the United Kingdom in the same manner as if the same had been originally issued or subsequently indorsed by a justice of the peace having jurisdiction in the place where the same is executed.

Depositions to be evidence.

(6 & 7 Vict., c. 76.)

14. Depositions or statements on oath, taken in a foreign State, and copies of such original depositions or statements, and foreign certificates of or judicial documents stating the fact of conviction, may, if duly authenticated, be received in evidence of proceedings under this Act.

Authentication of depositions and warrants.

(29 & 30 Vict., c. 121.)

15. Foreign warrants and depositions or statements on oath, and copies thereof, and certificates of or judicial documents stating the fact of a conviction, shall be deemed duly authenticated for the purposes of this Act if authenticated in manner provided for the time being by law or authenticated as follows :—

- (1.) If the warrant purports to be signed by a judge, magistrate or officer of the foreign State where the same was issued ;
- (2.) If the depositions or statements or the copies thereof purport to be certified under the hand of a judge, magistrate, or officer of the foreign State where the same were taken to be the original depositions or

statements, or to be true copies thereof, as the case may require; and

- (3.) If the certificate of or judicial document stating the fact of conviction purports to be certified by a judge, magistrate, or officer of the foreign State where the conviction took place and;

if in every case the warrants, depositions, statements, copies, certificates, and judicial documents (as the case may be) are authenticated by the oath of some witness or by being sealed with the official seal of the Minister of Justice, or some other Minister of State: And all courts of justice, justices, and magistrates shall take judicial notice of such official seal, and shall admit the documents so authenticated by it to be received in evidence without further proof.

CRIMES COMMITTED AT SEA.

Jurisdiction as to crimes committed at Sea.

16. Where the crime in respect of which the surrender of a fugitive criminal is sought was committed on board any vessel on the high seas which comes into any port of the United Kingdom, the following provisions shall have effect:—

- (1.) This Act shall be construed as if any stipendiary magistrate in England or Ireland, and any sheriff or sheriff substitute in Scotland, were substituted for the police magistrate throughout this Act, except the part relating to the execution of the warrant of the police magistrate:
- (2.) The criminal may be committed to any prison to which the person committing him has power to commit persons accused of the like crime:
- (3.) If the fugitive criminal is apprehended on a warrant issued without the order of a Secretary of State, he shall be brought before the stipendiary magistrate, sheriff, or sheriff substitute who issued the warrant, or who has jurisdiction in the port where the vessel lies, or in the place nearest to that port.

FUGITIVE CRIMINALS IN BRITISH POSSESSIONS.

Proceedings as to fugitive criminals in British possessions.

17. This Act when applied by Order in Council, shall, unless it is otherwise provided by such Order, extend to every British possession in the same manner as if throughout the Act the British possession were substituted for the United Kingdom or England, as the case may require, but with the following modifications; namely,

- (1.) The requisition for the surrender of a fugitive criminal who is in or suspected of being in a British possession may be made to the Governor of that British possession by any person recognised by that Governor as a consul-general, consul, or vice-consul, or (if the fugitive criminal has escaped from a colony or dependency of the foreign State on behalf of which the requisition is made) as the Governor of such colony or dependency :
- (2.) No warrant of a Secretary of State shall be required, and all powers vested in or acts authorised or required to be done under this Act by the police magistrate and the Secretary of State, or either of them, in relation to the surrender of a fugitive criminal, may be done by the Governor of the British possession alone :
- (3.) Any prison in the British possession may be substituted for a prison in Middlesex :
- (4.) A judge of any court exercising in the British possession the like powers as the Court of Queen's Bench exercises in England may exercise the power of discharging a criminal when not conveyed within two months out of such British possession.

Saving of laws of British possessions.

18. If by any law or ordinance, made before or after the passing of this Act by the Legislature of any British possession, provision is made for carrying into effect within such possession the surrender of fugitive criminals who are in or suspected of being in such British possession, Her Majesty may, by the Order in Council applying this Act in the case of any foreign State, or by any subsequent Order, either

Suspend the operation within any such British possession of this Act, or of any part thereof, so far as it relates to such foreign State, and so long as such law or ordinance continues in force there, and no longer ;

Or direct that such law or ordinance, or any part thereof, shall have effect in such British possession, with or without modifications and alterations, as if it were part of this Act.

GENERAL PROVISIONS.

Criminal surrendered by foreign State not triable for previous crime.

19. Where, in pursuance of any arrangement with a foreign State, any person accused or convicted of any crime which, if committed in England, would be one of the crimes described

in the first schedule to this Act is surrendered by that foreign State, such person shall not, until he has been restored or had an opportunity of returning to such foreign State, be triable or tried for any offence committed prior to the surrender in any part of Her Majesty's dominions other than such of the said crimes as may be proved by the facts on which the surrender is grounded.

As to use of forms in second schedule.

20. The forms set forth in the second schedule to this Act, or forms as near thereto as circumstances admit, may be used in all matters to which such forms refer, and in the case of a British possession may be so used, *mutatis mutandis*, and when used shall be deemed to be valid and sufficient in law.

Revocation, &c. of Order in Council.

21. Her Majesty may, by Order in Council, revoke or alter, subject to the restrictions of this Act, any Order in Council, made in pursuance of this Act, and all the provisions of this Act with respect to the original Order shall (so far as applicable) apply, *mutatis mutandis*, to any such new Order.

Application of Act in Channel Islands and Isle of Man.

22. This Act (except so far as relates to the execution of warrants in the Channel Islands) shall extend to the Channel Islands and Isle of Man in the same manner as if they were part of the United Kingdom; and the Royal Courts of the Channel Islands are hereby respectively authorised and required to register this Act.

Saving for Indian treaties.

23. Nothing in this Act shall affect the lawful powers of Her Majesty or of the Governor-General of India in Council to make treaties for the extradition of criminals with Indian native states, or with other Asiatic States conterminous with British India, or to carry into execution the provisions of any such treaties made either before or after the passing of this Act.

Power of foreign State to obtain evidence in United Kingdom.

24. The testimony of any witness may be obtained in relation to any criminal matter pending in any court or tribunal in a foreign State in like manner as it may be obtained in relation to any civil matter under the Act of the session of the nineteenth and twentieth years of the reign of Her present

Majesty, chapter one hundred and thirteen, intituled "An Act
 "to provide for taking evidence in Her Majesty's dominions
 "in relation to civil and commercial matters pending before
 "foreign tribunals," and all the provisions of that Act shall
 be construed as if the term "civil matter" included a criminal
 matter, and the term "cause" included a proceeding against a
 criminal: Provided that nothing in this section shall apply in the
 case of any criminal matter of a political character.

Foreign State includes dependencies.

25. For the purposes of this Act, every colony, dependency, and constituent part of a foreign State, and every vessel of that State, shall (except where expressly mentioned as distinct in this Act) be deemed to be within the jurisdiction of and to be part of such foreign State.

DEFINITION OF TERMS.

"British possession."

26. In this Act, unless the context otherwise requires,—

The term "British possession" means any colony, plantation, island, territory, or settlement within Her Majesty's dominions, and not within the United Kingdom, the Channel Islands, and Isle of Man; and all colonies, plantations, islands, territories, and settlements under one legislature, as hereinafter defined, are deemed to be one British possession:

"Legislature."

The term "legislature" means any person or persons who can exercise legislative authority in a British possession, and where there are local legislatures as well as a central legislature, means the central legislature only:

"Governor."

The term "Governor" means any person or persons administering the government of a British possession, and includes the Governor of any part of India:

"Extradition crime."

The term "extradition crime" means a crime which, if committed in England or within English jurisdiction, would be one of the crimes described in the first schedule to this Act:

"Conviction."

The terms "conviction" and "convicted" do not include or refer to a conviction which under foreign law is a

conviction for contumacy, but the term "accused person" includes a person so convicted for contumacy :

"Fugitive criminal." *"Fugitive criminal of a foreign State."*

The term "fugitive criminal" means any person accused or convicted of an extradition crime committed within the jurisdiction of any foreign State who is in or is suspected of being in some part of Her Majesty's dominions ; and the term "fugitive criminal of a foreign State" means a fugitive criminal accused or convicted of an extradition crime committed within the jurisdiction of that State :

"Secretary of State."

The term "Secretary of State" means one of Her Majesty's Principal Secretaries of State :

"Police magistrate."

The term "police magistrate" means a chief magistrate of the metropolitan police courts or one of the other magistrates of the metropolitan police court in Bow Street :

"Justice of the Peace."

The term "justice of the peace" includes in Scotland any sheriff, sheriff substitute, or magistrate :

"Warrant."

The term "warrant," in the case of any foreign State, includes any judicial document authorising the arrest of a person accused or convicted of crime.

REPEAL OF ACTS.

Repeal of Acts in third schedule.

27. The Acts specified in the third schedule to this Act are hereby repealed as to the whole of Her Majesty's dominions ; and this Act (with the exception of anything contained in it which is inconsistent with the treaties referred to in the Acts so repealed) shall apply (as regards crimes committed either before or after the passing of this Act), in the case of the foreign States with which those treaties are made, in the same manner as if an Order in Council referring to such treaties had been made in pursuance of this Act, and as if such Order had directed that every law and ordinance which is in force in any British possession with respect to such treaties should have effect as part of this Act.

Provided that if any proceedings for or in relation to the surrender of a fugitive criminal have been commenced under the said Acts previously to the repeal thereof, such proceedings may be completed, and the fugitive surrendered, in the same manner as if this Act had not passed.

Schedules.

FIRST SCHEDULE.

LIST OF CRIMES.

The following list of crimes is to be construed according to the law existing in England, or in a British possession (as the case may be), of the date of the alleged crime, whether by common law or by statute made before or after the passing of this Act:—

Murder, and attempt and conspiracy to murder.
 Manslaughter.
 Counterfeiting and altering money and uttering counterfeit or altered money.
 Forgery counterfeiting, and altering, and uttering what is forged or counterfeited or altered.
 Embezzlement and larceny.
 Obtaining money or goods by false pretences.
 Crimes by bankrupts against bankruptcy law.
 Fraud by a bailee, banker, agent, factor, trustee, or director, or member, or public officer of any company made criminal by any Act for the time being in force.
 Rape.
 Abduction.
 Child-stealing.
 Burglary and housebreaking.
 Arson
 Robbery with violence.
 Threats by letter or otherwise with intent to extort.
 Piracy by law of nations.
 Sinking or destroying a vessel at sea, or attempting or conspiring to do so.
 Assaults on board a ship on the high seas with intent to destroy life, or to do grievous bodily harm.
 Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.

THIRD SCHEDULE.

Year & Chapter.	Title.
6 & 7 Vict. c. 75.	An Act for giving effect to a Convention between Her Majesty and the King of the French for the apprehension of certain offenders.
6 & 7 Vict. c. 76.	An Act for giving effect to a Treaty between Her Majesty and the United States of America for the apprehension of certain offenders.
8 & 9 Vict. c. 120.	An Act for facilitating execution of the Treaties with France and the United States of America for the apprehension of certain offenders.
25 & 26 Vict. c. 70.	An Act for giving effect to a Convention between Her Majesty and the King of Denmark for the mutual surrender of criminals.
29 & 30 Vict. c. 121.	An Act for the Amendment of the Law relating to Treaties of Extradition.

36 & 37 VICT. c. 60

(EXTRADITION ACT, 1873).

An Act to Amend The Extradition Act, 1870.

[5th August, 1873.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent to the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Construction of Act and short title.

(33 & 34 VICT., c. 52.)

1. This Act shall be construed as one with the Extradition Act, 1870, (in this Act referred to as the principal Act,) and the principal Act and this Act may be cited together as The Extradition Acts, 1870 and 1873, and this Act may be cited alone as the Extradition Act, 1873.

Explanation of sect. 6 of 33 & 34 VICT. c. 52.

2. Whereas by section six of the principal Act it is enacted as follows :—

“Where this Act applies in the case of any foreign State, every fugitive criminal of that State who is in or suspected of being in any part of Her Majesty’s dominions, or that part which is specified in the Order applying this Act (as the case may be), shall be liable to be apprehended and surrendered in manner provided by this Act, whether the crime in respect of which the surrender is sought was committed before or after the date of the Order, and whether there is or is not any concurrent jurisdiction in any court of Her Majesty’s dominions over that crime.”

And whereas doubts have arisen as to the application of the said section to crimes committed before the passing of the principal Act, and it is expedient to remove such doubts, it is therefore hereby declared that—

A crime committed before the date of the Order includes in the said section a crime committed before the passing of the principal Act, and the principal Act, and this Act shall be construed accordingly.

Liability of accessories to be surrendered.

3. Whereas a person who is accessory before or after the fact, or counsels, procures, commands, aids, or abets the commission of any indictable offence, is by English law liable to be tried and punished as if he were the principal offender, but doubts have arisen whether such person as well as the principal offender can be surrendered under the principal Act, and it is expedient to remove such doubts; it is therefore hereby declared that—

Every person who is accused or convicted of having counselled, procured, commanded, aided, or abetted the commission of any extradition crime, or of being accessory before or after the fact to any extradition crime, shall be deemed for the purposes of the principal Act and this Act to be accused or convicted of having committed such crime, and shall be liable to be apprehended and surrendered accordingly.

Explanation of sect. 14 of 33 & 34 VICT. c. 52 as to statements on oath including affirmations.

4. Be it declared, that the provisions of the principal Act relating to depositions and statements on oath taken in a foreign State, and copies of such original depositions and statements, do and shall extend to affirmations taken in a foreign State, and copies of such affirmations.

Power of taking evidence in United Kingdom for foreign criminal matters.

5. A Secretary of State may, by order under his hand and seal, require a police magistrate or a justice of the peace to take evidence for the purposes of any criminal matter pending in any court or tribunal in any foreign State; and the police magistrate or justice of the peace, upon the receipt of such order, shall take the evidence of every witness appearing before him for the purpose in like manner as if such witness appeared on a charge against some defendant for an indictable offence, and shall certify at the foot of the depositions so taken that such evidence was taken before him, and shall transmit the same to the Secretary of State; such evidence may be taken in the presence or absence of the person charged, if any, and the fact of such presence or absence shall be stated in such deposition.

Any person may, after payment or tender to him of a reasonable sum for his costs and expenses in this behalf, be compelled, for the purposes of this section, to attend and give evidence and answer questions and produce documents, in like manner and subject to the like conditions as he may in the case of a charge preferred for an indictable offence.

Every person who wilfully gives false evidence before a police magistrate or justice of the peace under this section shall be guilty of perjury.

Provided that nothing in this section shall apply in the case of any criminal matter of a political character.

Explanation of sect. 16 of 33 & 34 VICT. c. 52.

6. The jurisdiction conferred by section sixteen of the principal Act on a stipendiary magistrate, and a sheriff or sheriff substitute, shall be deemed to be in addition to, and not in derogation or exclusion of, the jurisdiction of the police magistrate.

Explanation of diplomatic representative and consul.

7. For the purposes of the principal Act and this Act a diplomatic representative of a foreign State shall be deemed to include any person recognised by the Secretary of State as a consul-general of that State, and a consul or vice-consul shall be deemed to include any person recognised by the Governor of a British Possession as a consular officer of a foreign State.

Addition to list of crimes in schedule.

8. The principal Act shall be construed as if there were included in the first schedule to that Act the list of crimes contained in the schedule to this Act.

SCHEDULE.

LIST OF CRIMES.

The following list of crimes is to be construed according to the law existing in England or in a British Possession (as the case may be) at the date of the alleged crime, whether by common law or by statute made before or after the passing of this Act :

Kidnapping and false imprisonment.

Perjury, and subornation of perjury, whether under common or statute law.

(24 & 25 Vict. c. 96. &c.)

Any indictable offence under the Larceny Act, 1861, or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

Any indictable offence under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety-seven, "To consolidate and amend the statute law of England and Ireland relating to malicious injuries to property," or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

Any indictable offence under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety-eight, "To consolidate and amend the statute law of England and Ireland relating to indictable offences by forgery," or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

Any indictable offence under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety-nine, "To consolidate and amend the statute law of the United Kingdom against offences relating to the coin," or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

Any indictable offence under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter one hundred, "To consolidate and amend the statute law of England and Ireland relating to offences against the person," or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

Any indictable offence under the laws for the time being in force in relation to bankruptcy which is not included in the first schedule to the principal Act.

ORDINANCE No. IV OF 1877.

An Ordinance to provide for the more convenient administration of “The Imperial Extradition Acts, 1870 and 1873.” Title.

[23rd March, 1877.]

WM. F. DRUMMOND JERVOIS,

Governor and Commander-in-Chief.

WHEREAS by the Act of the Imperial Parliament known as Preamble.
“The Extradition Act, 1870,” it is amongst other things enacted that the said Act when applied by Order in Council, shall, unless it is otherwise provided by such Order, extend to every British possession, but with the following among other modifications, namely :—

No warrant of a Secretary of State shall be required, and all powers vested in, or Acts authorised or required to be done under the said Act by the Police Magistrates and the Secretary of State, or either of them, in relation to the surrender of a fugitive criminal, may be done by the Governor of the British possession alone.

and any prison in the British possession may be substituted for a prison in Middlesex :

And whereas by the said Act it is also enacted that :—

If by any law or Ordinance made before or after the passing of the said Act, by the legislature of any British possession, provision is made for carrying into effect, within such possession, the surrender of fugitive criminals who are in, or suspected of being in such British possession, Her Majesty may, by the Order in Council applying the said Act in the case of any foreign state, or by any subsequent Order, either

Suspend the operation within any such British possession of the said Act, or any part thereof, so far as it relates to such foreign state, and as so long as such law or Ordinance continues in force there, and no longer ;

Or direct that such law or Ordinance, or any part thereof, shall have effect in such British possession, with or without modifications and alterations, as if it were part of the said Act :

And whereas by another Act of the Imperial Parliament known as “The Extradition Act of 1873” it is enacted that the said Act shall be construed as one with “The Extradition

Act, 1870," and that the said two Acts may be cited together as "The Extradition Acts, 1870 and 1873 : "

And whereas it is expedient to provide for the more convenient administration within this colony of "The Extradition Acts, 1870 and 1873," by conferring on the Police Magistrates of the Colony the like powers and authorities in relation to the surrender of Fugitive Criminals as are by the said Acts vested in Police Magistrates and Justices of the Peace in the United Kingdom :

It is hereby enacted by the Governor of the Straits Settlements, with the advice and consent of the Legislative Council thereof, as follows :—

I. This Ordinance may be cited as "The Extradition Ordinance, 1877.

Powers of
Police
Magistrates
in relation to
Extradition
under the
Imperial
Acts.

II. All powers vested in and acts authorised or required to be done by a Police Magistrate or any Justice of the Peace in relation to the surrender of Fugitive Criminals in the United Kingdom, under "The Extradition Acts, 1870 and 1873," are hereby vested in, and may in the Colony be exercised and done by, any Police Magistrate, in relation to the surrender of Fugitive Criminals under the said Acts.

Suspending
clause.

III. This Ordinance shall not come into operation until Her Majesty shall by Order in Council direct that this Ordinance shall have effect within the Colony as if it were part of "The Extradition Act, 1870," but this Ordinance shall thereafter come into operation as soon as such Order in Council shall have been publicly made known in the Colony.

Passed this 23rd day of March, 1877.

A. M. SKINNER,
Acting Clerk of Councils.

FUGITIVE OFFENDERS ACT 1881.

CHAPTER. 69.

A. D. 1881. *An Act to amend the Law with respect to Fugitive Offenders in Her Majesty's Dominions, and for other Purposes connected with the Trial of Offenders.*
[27th August, 1881.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows ; (that is to say,)

Short title.

1. This Act may be cited as the Fugitive Offenders Act, 1881.

PART. I.

RETURN OF FUGITIVES.

2. Where a person accused of having committed an offence (to which this part of this Act applies) in one part of Her Majesty's dominions has left that part, such person (in this Act referred to as a fugitive from that part) if found in another part of Her Majesty's dominions, shall be liable to be apprehended and returned in manner provided by this Act to the part from which he is a fugitive. Liability of fugitive to be apprehended and returned.

A fugitive may be so apprehended under an endorsed warrant or a provisional warrant.

3. Where a warrant has been issued in one part of Her Majesty's dominions for the apprehension of a fugitive from that part, any of the following authorities in another part of Her Majesty's dominions in or on the way to which the fugitive is or is suspected to be; (that is to say,) Endorsing of warrant for apprehension of fugitive.

(1.) A judge of a superior court in such part; and

(2.) In the United Kingdom a Secretary of State and one of the magistrates of the metropolitan police court in Bow Street; and

(3.) In a British possession the governor of that possession, if satisfied that the warrant was issued by some person having lawful authority to issue the same, may endorse such warrant in manner provided by this Act, and the warrant so endorsed shall be a sufficient authority to apprehend the fugitive in the part of Her Majesty's dominions in which it is endorsed, and bring him before a magistrate.

4. A magistrate of any part of Her Majesty's dominions may issue a provisional warrant for the apprehension of a fugitive who is or is suspected of being in or on his way to that part on such information, and under such circumstances, as would in his opinion justify the issue of a warrant if the offence of which the fugitive is accused had been committed within his jurisdiction, and such warrant may be backed and executed accordingly. Provisional warrant for apprehension of fugitive.

A magistrate issuing a provisional warrant shall forthwith send a report of the issue, together with the information or a certified copy thereof, if he is in the United Kingdom, to a Secretary of State, and if he is in a British possession, to the governor of that possession, and the Secretary of State or governor may, if he think fit, discharge the person apprehended under such warrant.

5. A fugitive when apprehended shall be brought before a magistrate, who subject to the provisions of this Act) shall hear the case in the same manner and have the same jurisdiction. Dealing with fugitive when apprehended.

tion and powers, as near as may be (including the power to remand and admit to bail), as if the fugitive were charged with an offence committed within his jurisdiction.

If the endorsed warrant for the apprehension of the fugitive is duly authenticated, and such evidence is produced as (subject to the provisions of this Act) according to the law ordinarily administered by the magistrate, raises a strong or probable presumption that the fugitive committed the offence mentioned in the warrant, and that the offence is one to which this part of this Act applies, the magistrate shall commit the fugitive to prison to await his return, and shall forthwith send a certificate of the committal and such report of the case as he may think fit, if in the United Kingdom to a Secretary of State, and if in a British possession to the governor of that possession.

Where the magistrate commits the fugitive to prison he shall inform the fugitive that he will not be surrendered until after the expiration of fifteen days, and that he has a right to apply for a writ of *Habeas Corpus*, or other like process.

A fugitive apprehended on a provisional warrant may be from time to time remanded for such reasonable time not exceeding seven days at any one time, as under the circumstances seems requisite for production of an endorsed warrant.

Return of fugitive by warrant.

6. Upon the expiration of fifteen days after a fugitive has been committed to prison to await his return, or if a writ of *Habeas Corpus* or other like process is issued with reference to such fugitive by a superior court, after the final decision of the court in the case,

(1.) if the fugitive is so committed in the United Kingdom, a Secretary of State; and

(2.) if the fugitive is so committed in a British possession, the governor of that possession, may, if he thinks it just, by warrant under his hand order that fugitive to be returned to the part of Her Majesty's dominions from which he is a fugitive, and for that purpose to be delivered into the custody of the persons to whom the warrant is addressed, or some one or more of them, and to be held in custody, and conveyed by sea or otherwise to the said part of Her Majesty's dominions, to be dealt with there in due course of law as if he had been there apprehended, and such warrant shall be forthwith executed according to the tenor thereof.

The governor or other chief officer of any prison, on request of any person having the custody of a fugitive under any such warrant, and on payment or tender of a reasonable amount for expenses, shall receive such fugitive and detain him for such reasonable time as may be requested by the said person for the purpose of the proper execution of the warrant.

7. If a fugitive who, in pursuance of this part of this Act, has been committed to prison in any part of Her Majesty's dominions to await his return, is not conveyed out of that part within one month after such committal, a superior court, upon application by or on behalf of the fugitive, and upon proof that reasonable notice of the intention to make such application has been given, if the said part is the United Kingdom to a Secretary of State, and if the said part is a British possession to the governor of the possession, may, unless sufficient cause is shown to the contrary, order the fugitive to be discharged out of custody.

Discharge of person apprehended if not returned within one month.

8. Where a person accused of an offence and returned in pursuance of this part of this Act to any part of Her Majesty's dominions, either is not prosecuted for the said offence within six months after his arrival in that part, or is acquitted of the said offence then if that part is the United Kingdom a Secretary of State, and if that part is a British possession the governor of that possession, may, if he think fit, on the request of such person, cause him to be sent back free of cost and with as little delay as possible to the part of Her Majesty's dominions in or on his way to which he was apprehended.

Sending back of persons apprehended if not prosecuted within six months or acquitted.

9. This part of this Act shall apply to the following offences, namely, to treason and piracy, and to every offence, whether called felony, misdemeanor, crime, or by any other name, which is for the time being punishable in the part of Her Majesty's dominions in which it was committed either on indictment or information by imprisonment with hard labour for a term of twelve months or more, or by any greater punishment; and for the purposes of this section, rigorous imprisonment, and any confinement in a prison combined with labour, by whatever name it is called, shall be deemed to be imprisonment with hard labour.

Offences to which this part of this Act applies.

This part of this Act shall apply to an offence notwithstanding that by the law of the part of Her Majesty's dominions in or on his way to which the fugitive is or is suspected of being it is not an offence, or not an offence to which this part of this Act applies; and all the provisions of this part of this Act, including those relating to a provisional warrant and to a committal to prison, shall be construed as if the offence were in such last-mentioned part of Her Majesty's dominions an offence to which this part of this Act applies.

10. Where it is made to appear to a superior court that by reason of the trivial nature of the case, or by reason of the application for the return of a fugitive not being made in good faith in the interests of justice or otherwise, it would, having

Powers of superior court to discharge fugitive when case frivolous or return unjust.

regard to the distance, to the facilities for communication, and to all the circumstances of the case, be unjust or oppressive or too severe a punishment to return the fugitive, either at all or until the expiration of a certain period, such court may discharge the fugitive, either absolutely or on bail, or order that he shall not be returned until after the expiration of the period named in the order, or may make such other order in the premises as to the court seems just.

Power of
Lord Lieutenant
in Ire-
land.

11. In Ireland the Lord Lieutenant or Lords Justices or other chief governor or governors of Ireland, also the chief secretary of such Lord Lieutenant, may, as well as a Secretary of State, execute any portion of the powers by this part of this Act vested in a Secretary of State.

PART II.

INTER-COLONIAL BACKING OF WARRANTS, AND OFFENCES.

Application of part of Act.

Application of
part of Act to
group of Bri-
tish posses-
sions.

12. This part of this Act shall apply only to those groups of British possessions to which, by reason of their contiguity or otherwise, it may seem expedient to Her Majesty to apply the same.

It shall be lawful for Her Majesty from time to time by Order in Council to direct that this part of this Act shall apply to the group of British possessions mentioned in the Order, and by the same or any subsequent Order to except certain offences from the application of this part of this Act, and to limit the application of this part of this Act by such conditions, exceptions, and qualifications as may be deemed expedient.

Backing of Warrants.

Backing in one
British posses-
sion of war-
rant issued in
another of
same group.

13. Where in a British possession of a group to which this part of this Act applies a warrant has been issued for the apprehension of a person accused of an offence punishable by law in that possession, and such person is or is suspected of being in or on the way to another British possession of the same group, a magistrate in the last-mentioned possession, if satisfied that the warrant was issued by a person having lawful authority to issue the same, may endorse such warrant in manner provided by this Act, and the warrant so endorsed shall be

sufficient authority to apprehend, within the jurisdiction of the endorsing magistrate, the person named in the warrant, and bring him before the endorsing magistrate in the same British possession.

14. The magistrate before whom a person so apprehended is brought, if he is satisfied that the warrant is duly authenticated as directed by this Act and was issued by a person having lawful authority to issue the same, and is satisfied on oath that the prisoner is the person named or otherwise described in the warrant, may order such prisoner to be returned to the British possession in which the warrant was issued, and for that purpose to be delivered into the custody of the persons to whom the warrant is addressed, or any one or more of them, and to be held in custody and conveyed by sea or otherwise into the British possession in which the warrant was issued, there to be dealt with according to law as if he had been there apprehended. Such order for return may be made by warrant under the hand of the magistrate making it, and may be executed according to the tenor thereof.

Return of prisoner apprehended under backed warrant.

A magistrate shall, so far as is requisite for the exercise of the powers of this section, have the same power, including the power to remand and admit to bail a prisoner, as he has in the case of a person apprehended under a warrant issued by him.

15. Where a person required to give evidence on behalf of the prosecutor or defendant on a charge for an offence punishable by law in a British possession of a group to which this part of this Act applies, is or is suspected of being in or on his way to any other British possession of the same group, a judge, magistrate, or other officer who would have lawful authority to issue a summons, requiring the attendance of such witness, if the witness were within his jurisdiction, may issue a summons for the attendance of such witness, and a Magistrate in any other British possession of the same group, if satisfied that the summons was issued by some judge, magistrate, or officer having lawful authority as aforesaid, may endorse the summons with his name; and the witness, on service in that possession of the summons, so endorsed, and on payment or tender of a reasonable amount for his expenses, shall obey the summons, and in default shall be liable to be tried and punished either in the possession in which he is served or in the possession in which the summons was issued, and shall be liable to the punishment imposed by the law of the possession in which he is tried for the failure of a witness to obey such a summons. The expres-

Backing in one British possession of summons, &c., of witness issued in another possession of same group.

sion "summons" in this section includes any subpoena or other process for requiring the attendance of a witness.

Provisional
warrant in
group of Brit-
ish possess-
ions.

16. A magistrate in a British possession of a group to which this part of this Act applies, before the endorsement in pursuance of this part of this Act of a warrant for the apprehension of any person, may issue a provisional warrant for the apprehension of that person, on such information and under such circumstances as would in his opinion justify the issue of a warrant if the offence of which such person is accused were an offence punishable by the law of the said possession, and had been committed within his jurisdiction, and such warrant may be backed and executed accordingly; provided that a person arrested under such provisional warrant shall be discharged unless the original warrant is produced and endorsed within such reasonable time as may under the circumstances seem requisite.

Discharge of
prisoner not
returned with-
in one month
to British
possession of
same group.

17. If a prisoner in a British possession whose return is authorised in pursuance of this part of this Act is not conveyed out of that possession within one month after the date of the warrant ordering his return, a magistrate or a superior court, upon application by or on behalf of the prisoner, and upon proof that reasonable notice of the intention to make such application has been given to the person holding the warrant and to the chief officer of the police of such possession or of the province or town where the prisoner is in custody, may, unless sufficient cause is shown to the contrary, order such prisoner to be discharged out of custody.

Any order or refusal to make an order of discharge by a magistrate under this section shall be subject to an appeal to a superior court.

Sending back
of prisoner
not prosecut-
ed or acquit-
ted to British
possession of
same group.

18. Where a prisoner accused of an offence is returned in pursuance of this part of this Act to a British possession, and either is not prosecuted for the said offence within six months after his arrival in that possession or is acquitted of the said offence, the governor of that possession, if he thinks fit, may, on the requisition of such person, cause him to be sent back, free of cost, and with as little delay as possible, to the British possession in or on his way to which he was apprehended.

Refusal to re-
turn prisoner
where offences
too trivial.

19. Where the return of a prisoner is sought or ordered under this part of this Act, and it is made to appear to a magistrate or to a superior court that by reason of the trivial nature

of the case, or by reason of the application for the return of such prisoner not being made in good faith in the interests of justice or otherwise, it would, having regard to the distance, to the facilities of communication, and to all the circumstances of the case, be unjust or oppressive, or too severe a punishment, to return the prisoner either at all or until the expiration of a certain period, the court or magistrate may discharge the prisoner either absolutely or on bail, or order that he shall not be returned until after the expiration of the period named in the order, or may make such order in the premises as to the magistrate or court seems just.

Any order or refusal to make an order of discharge by a magistrate under this section shall be subject to an appeal to a superior court.

PART III.

Trial, &c. of Offences.

20. Where two British possessions adjoin, a person accused of an offence committed on or within the distance of five hundred yards from the common boundary of such possessions may be apprehended, tried, and punished in either of such possessions. Offences committed on boundary of two adjoining British possessions.

21. Where an offence is committed on any person or in respect of any property in or upon any carriage, cart, or vehicle whatsoever employed in a journey, or on board any vessel whatsoever employed in a navigable river, lake, canal, or inland navigation, the person accused of such offence may be tried in any British possession through a part of which such carriage, cart, vehicle, or vessel passed in the course of the journey or voyage during which the offence was committed; and where the side, bank, centre, or other part of the road, river, lake, canal, or inland navigation along which the carriage, cart, vehicle, or vessel, passed in the course of such journey or voyage is the boundary of any British possession, a person may be tried for such offence in any British possession of which it is the boundary: Offences committed on journey between two British possessions.

Provided that nothing in this section shall authorise the trial for such offence of a person who is not a British subject, where it is not shown that the offence was committed in a British possession.

Trial of offence of false swearing or giving false evidence.

22. A person accused of the offence (under whatever name it is known) of swearing or making any false deposition, or of giving or fabricating any false evidence, for the purposes of this Act, may be tried either in the part of Her Majesty's dominions in which such deposition or evidence is used, or in the part in which the same was sworn, made, given, or fabricated, as the justice of the case may require.

Supplemental provision as to trial of person in any place.

23. Where any part of this Act provides for the place of trial of a person accused of an offence, that offence shall, for all purposes of and incidental to the apprehension, trial, and punishment of such person, and of and incidental to any proceedings and matters preliminary, incidental to, or consequential thereon, and of and incidental to the jurisdiction of any court, constable, or officer with reference to such offence, and to any person accused of such offence, be deemed to have been committed in any place in which the person accused of the offence can be tried for it; and such person may be punished in accordance with the Courts (Colonial) Jurisdiction Act, 1874.

37 & 38 Vict. c. 27.

Issue of search warrant.

24. Where a warrant for the apprehension of a person accused of an offence has been endorsed in pursuance of any part of this Act in any part of Her Majesty's dominions, or where any part of the Act provides for the place of trial of a person accused of an offence, every court and magistrate of the part in which the warrant is endorsed or the person accused of the offence can be tried shall have the same power of issuing a warrant to search for any property alleged to be stolen or to be otherwise unlawfully taken or obtained by such person, or otherwise to be the subject of such offence, as that court or magistrate would have if the property had been stolen or otherwise unlawfully taken or obtained, or the offence had been committed wholly within the jurisdiction of such court or magistrate.

Removal of prisoner by sea from one place to another.

25. Where a person is in legal custody in a British possession either in pursuance of this Act or otherwise, and such person is required to be removed in custody to another place in or belonging to the same British possession, such person, if removed by sea in a vessel belonging to Her Majesty or any of Her Majesty's subjects, shall be deemed to continue in legal custody until he reaches the place to which he is required to be removed; and the provisions of this Act with

respect to the retaking of a prisoner who has escaped, and with respect to the trial and punishment of a person guilty of the offence of escaping or attempting to escape, or aiding or attempting to aid a prisoner to escape, shall apply to the case of a prisoner escaping while being lawfully removed as aforesaid, in like manner as if he were being removed in pursuance of a warrant endorsed in pursuance of this Act.

PART IV.

SUPPLEMENTAL.

Warrants and Escape.

26. An endorsement of a warrant in pursuance of this Act shall be signed by the authority endorsing the same, and shall authorise all or any of the persons named in the endorsement, and of the persons to whom the warrant was originally directed, and also every constable, to execute the warrant within the part of Her Majesty's dominions or place within which such endorsement is by this Act made a sufficient authority, by apprehending the person named in it, and bringing him before some magistrate in the said part or place, whether the magistrate named in the endorsement or some other. Endorsement of warrant.

For the purposes of this Act every warrant, summons, subpœna, and process, and every endorsement made in pursuance of this Act thereon, shall remain in force, notwithstanding that the person signing the warrant or such endorsement dies or ceases to hold office.

27. Where a fugitive or prisoner is authorised to be returned to any part of Her Majesty's dominions in pursuance of Part One or Part Two of this Act, such fugitive or prisoner may be sent thither in any ship belonging to Her Majesty or to any of her subjects. Conveyance of fugitives and witnesses.

For the purpose aforesaid, the authority signing the warrant for the return may order the master of any ship belonging to any subject of Her Majesty bound to the said part of Her Majesty's dominions to receive and afford a passage and subsistence during the voyage to such fugitive or prisoner, and to the person having him in custody, and to the witnesses, so that such master be not required to receive more than one fugitive or

prisoner for every hundred tons of his ship's registered tonnage, or more than one witness for every fifty tons of such tonnage.

The said authority shall endorse or cause to be endorsed upon the agreement of the ship such particulars with respect to any fugitive prisoner or witness sent in her as the Board of Trade from time to time require.

Every such master shall, on his ship's arrival in the said part of Her Majesty's dominions, cause such fugitive or prisoner, if he is not in the custody of any person, to be given into the custody of some constable, there to be dealt with according to law.

Every master who fails on payment or tender of a reasonable amount for expenses to comply with an order made in pursuance of this section, or to cause a fugitive or prisoner committed to his charge to be given into custody as required by this section, shall be liable on summary conviction to a fine not exceeding fifty pounds, which may be recovered in any part of Her Majesty's dominions in like manner as a penalty of the same amount under the Merchant Shipping Act, 1854, and the Acts, amending the same.

17 & 18 Vict.
c. 104.

Escape of prisoner from custody.

28. If a prisoner escape, by breach of prison or otherwise, out of the custody of a person acting under a warrant issued or endorsed in pursuance of this Act, he may be retaken in the same manner as a person accused of a crime against the law of that part of Her Majesty's dominions to which he escapes may be retaken upon an escape.

A person guilty of the offence of escaping or of attempting to escape, or of aiding or attempting to aid a prisoner to escape, by breach of prison or otherwise, from custody under any warrant issued or endorsed in pursuance of this Act, may be tried in any of the following parts of Her Majesty's dominions, namely, the part to which and the part from which the prisoner is being removed, and the part in which the prisoner escapes, and the part in which the offender is found.

Evidence.

Depositions to be evidence and authentication of depositions and warrants.

29. A magistrate may take depositions for the purposes of this Act in the absence of a person accused of an offence in like manner as he might take the same if such person were present and accused of the offence before him.

Depositions (whether taken in the absence of the fugitive or

otherwise) and copies thereof, and official certificates of or judicial documents stating facts, may, if duly authenticated, be received in evidence in proceedings under this Act.

Provided that nothing in this Act shall authorise the reception of any such depositions, copies, certificates, or documents in evidence against a person upon his trial for an offence.

Warrants and depositions, and copies thereof, and official certificates of or judicial documents stating facts, shall be deemed duly authenticated for the purposes of this Act if they are authenticated in manner provided for the time being by law, or if they purport to be signed by or authenticated by the signature of a judge, magistrate, or officer of the part of Her Majesty's dominions in which the same are issued, taken, or made, and are authenticated either by the oath of some witness, or by being sealed with the official seal of a Secretary of State, or with the public seal of a British possession, or with the official seal of a governor of a British possession, or of a colonial secretary, or of some secretary or minister administering a department of the government of a British possession.

And all courts and magistrates shall take judicial notice of every such seal as is in this section mentioned, and shall admit in evidence without further proof the documents authenticated by it.

Miscellaneous.

30. The jurisdiction under Part One of this Act to hear a case and commit a fugitive to prison to await his return shall be exercised,—

Provision as to exercise of jurisdiction by magistrates.

- (1.) In England, by a chief magistrate of the metropolitan police court or one of the other magistrates of the metropolitan police court at Bow Street; and
- (2.) In Scotland, by the sheriff or sheriff substitute of the county of Edinburgh; and
- (3.) In Ireland, by one of the police magistrates of the Dublin metropolitan police district; and
- (4.) In a British possession, by any judge, justice of the peace, or other officer having the like jurisdiction as one of the magistrates of the metropolitan police court in Bow Street, or by such other court, judge, or magistrate as may be from time to time provided by an Act or Ordinance passed by the legislature of that possession.

If a fugitive is apprehended and brought before a magistrate who has no power to exercise the jurisdiction under this Act in respect of that fugitive, that magistrate shall order the fugitive to be brought before some magistrate having that jurisdiction, and such order shall be obeyed.

Power as to making and revocation of Orders in Council.

31. It shall be lawful for Her Majesty in Council from time to time to make Orders for the purposes of this Act, and to revoke and vary any Order so made, and every Order so made shall while it is in force have the same effect as if it were enacted in this Act.

An Order in Council made for the purposes of this Act shall be laid before Parliament as soon as may be after it is made if Parliament is then in session, or if not, as soon as may be after the commencement of the then next session of Parliament.

Power of legislature of British possession to pass laws for carrying into effect this Act.

32. If the legislature of a British possession pass any Act or ordinance—

- (1.) For defining the offences committed in that possession to which this Act or any part thereof is to apply ; or
- (2.) For determining the court, judge, magistrate, officer, or persons by whom and the manner in which any jurisdiction or power under this Act is to be exercised ; or
- (3.) For payment of the costs incurred in returning a fugitive or a prisoner, or in sending him back if not prosecuted or if acquitted, or otherwise in the execution of this Act ; or
- (4.) In any manner for the carrying of this Act or any part thereof into effect in that possession,

it shall be lawful for Her Majesty by Order in Council to direct, if it seems to Her Majesty in Council necessary or proper for carrying into effect the objects of this Act, that such Act or ordinance, or any part thereof, shall with or without modification or alteration be recognised and given effect to throughout Her Majesty's dominions and on the high seas as if it were part of this Act.

Application of Act.

Application of Act to offences at sea or triable in several

33. Where a person accused of an offence can, by reason of the nature of the offence, or of the place in which it was committed, or otherwise, be, under this Act or otherwise, tried for or in respect of the offence in more than one part of Her

Majesty's dominions, a warrant for the apprehension of such person may be issued in any part of Her Majesty's dominions in which he can, if he happens to be there, be tried; and each part of this Act shall apply as if the offence had been committed in the part of Her Majesty's dominions where such warrant is issued, and such person may be apprehended and returned in pursuance of this Act, notwithstanding that in the place in which he is apprehended a court has jurisdiction to try him:

parts of Her Majesty's dominions.

Provided that if such person is apprehended in the United Kingdom a Secretary of State, and if he is apprehended in a British possession, the governor of such possession, may if satisfied that, having regard to the place where the witnesses for the prosecution and for the defence are to be found, and to all the circumstances of the case, it would be conducive to the interests of justice so to do, order such person to be tried in the part of Her Majesty's dominions in which he is apprehended, and in such case any warrant previously issued for his return shall not be executed.

34. Where a person convicted by a court in any part of Her Majesty's dominions of any offence committed either in Her Majesty's dominions or elsewhere, is unlawfully at large before the expiration of his sentence, each part of this Act shall apply to such person, so far as is consistent with the tenor thereof, in like manner as it applies to a person accused of the like offence committed in the part of Her Majesty's dominions in which such person was convicted.

Application of Act to convicts.

35. Where a person accused of an offence is in custody in some part of Her Majesty's dominions, and the offence is one for or in respect of which, by reason of the nature thereof or of the place in which it was committed or otherwise, a person may under this Act or otherwise be tried in some other part of Her Majesty's dominions, in such case a superior court, and also if such person is in the United Kingdom a Secretary of State, and if he is in a British possession, the governor of that possession, if satisfied that, having regard to the place where the witnesses for the prosecution and for the defence are to be found, and to all the circumstances of the case, it would be conducive to the interests of justice so to do, may by warrant direct the removal of such offender to some other part of Her Majesty's dominions in which he can be tried, and the offender may be returned, and, if not prosecuted or acquitted, sent back

Application of Act to removal of person triable in more than one part of Her Majesty's dominions.

free of cost in like manner as if he were a fugitive returned in pursuance of Part One of this Act, and the warrant were a warrant for the return of such fugitive, and the provisions of this Act shall apply accordingly.

Application
of Act to
foreign
jurisdiction.

36. It shall be lawful for Her Majesty from time to time by Order in Council to direct that this Act shall apply as if, subject to the conditions, exceptions, and qualifications (if any) contained in the Order, any place out of Her Majesty's dominions in which Her Majesty has jurisdiction, and which is named in the Order, were a British possession, and to provide for carrying into effect such application.

Application
of Act to,
and execution
of warrant
in United
Kingdom,
Channel
Islands, and
Isle of Man.

37. This Act shall extend to the Channel Islands and Isle of Man as if they were part of England and of the United Kingdom, and the United Kingdom and those islands shall be deemed for the purpose of this Act to be one part of Her Majesty's dominions; and a warrant endorsed in pursuance of Part One of this Act may be executed in every place in the United Kingdom and the said islands accordingly.

Application
of Act to past
offences.

38. This Act shall apply where an offence is committed before the commencement of this Act, or, in the case of Part Two of this Act, before the application of that part to a British possession or to the offence, in like manner as if such offence had been committed after such commencement or application.

Definitions and Repeal.

Definition of
terms.
"Secretary of
State."
"British pos-
session."

39. In this Act, unless the context otherwise requires,—
The expression "Secretary of State" means one of Her Majesty's Principal Secretaries of State:
The expression "British possession" means any part of Her Majesty's dominions, exclusive of the United Kingdom, the Channel Islands, and Isle of Man; all territories and places within Her Majesty's dominions which are under one legislature shall be deemed to be one British possession and one part of Her Majesty's dominions:

"Legisla-
ture."

The expression "legislature," where there are local legislatures as well as a central legislature, means the central legislature only:

"Governor."

The expression "Governor" means any person or persons administering the government of a British possession,

"Ireland relating to malicious injuries to property," or any Act amending or substituted for the same, which is not specifically mentioned in this Schedule.

Any indictable offence under the Act of the Session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety-eight, "To consolidate and amend the Statute Law of England and Ireland relating to indictable offences by forgery," or any Act amending or substituted for the same, which is not specifically mentioned in this Schedule.

Any indictable offence under the Act of the Session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety-nine, "To consolidate and amend the Statute Law of the United Kingdom against offences relating to the Coin," or any Act amending or substituted for the same, which is not specifically mentioned in this Schedule.

Any indictable offence under the Act of the Session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter one hundred, "To consolidate and amend the Statute Law of England and Ireland relating to offences against the person," or any Act amending or substituted for the same, which is not specifically mentioned in this Schedule.

Any indictable offence under the laws for the time being in force in relation to bankruptcy which is not specifically mentioned in this Schedule.

AT THE COURT AT OSBORNE HOUSE, ISLE OF WIGHT,

The 31st day of December, 1883.

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY,

HIS ROYAL HIGHNESS PRINCE LEOPOLD, DUKE OF

ALBANY,

LORD PRESIDENT,

SIR HENRY PONSONBY.

WHEREAS by an Order in Council dated the 26th day of June 1879, provision was made for the surrender by the Governor of the Straits Settlements to Foreign States in the case of which the Extradition Act, 1870, does not apply of persons accused of the commission of certain crimes within the jurisdiction of such States.

17. The Schedule to this Order in Council annexed shall be taken to be part of this Order in Council.

C. L. PEEL.

THE SCHEDULE.

The following list of crimes is to be construed according to the law existing in the Straits Settlements at the date of the alleged crime:—

Murder and attempt and conspiracy to murder.

Manslaughter.

Counterfeiting and altering money and uttering counterfeit or altered money.

Forgery, counterfeiting, and altering and uttering what is forged or counterfeited or altered.

Embezzlement and larceny.

Obtaining money or goods by false pretences.

Crimes by bankrupts against bankruptcy law.

Fraud by a bailee, banker, agent, factor, trustee, or director or member or public officer of any Company made criminal by any Act for the time being in force.

Rape.

Abduction.

Child stealing.

Burglary and housebreaking.

Arson.

Robbery with violence.

Threats by letter or otherwise with intent to extort.

Piracy by law of nations.

Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

Assaults on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.

Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the Master.

Kidnapping and false imprisonment.

Perjury and subornation of perjury, whether under Common or Statute Law.

Any indictable offence under the Larceny Act, 1861, or any Act amending or substituted for the same, which is not specifically mentioned in this Schedule.

Any indictable offence under the Act of the Session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety-seven, "To consolidate and amend the Statute Law of England and

surrender proceeds, or by arrangement that he shall not, until he has been restored to Her Majesty's Dominions, be detained or tried in that State for any offence committed before his surrender, other than the crime in respect of which he is surrendered.

12. It shall be lawful for the person to whom a fugitive criminal shall be so ordered to be surrendered to receive, hold in custody, and convey within the jurisdiction of the Foreign State from which the requisition for his surrender came such fugitive criminal, and if such fugitive criminal escapes out of the custody of such person it shall be lawful to retake him in the same manner as any person accused of any crime against the laws of the Straits Settlements may be retaken upon an escape from lawful custody.

13. If any fugitive criminal committed to prison under this Order in Council shall not be surrendered and conveyed out of the Straits Settlements within two calendar months after his committal it shall be lawful for any Judge of the Supreme Court of the Straits Settlements, upon application by or on behalf of the fugitive criminal, and upon proof that notice of the application has been given to the Governor or to the Colonial Secretary, to order the fugitive criminal to be discharged out of custody, unless sufficient cause is shown to the contrary.

14. For the purposes of this Order in Council every Colony, Dependency, and constituent part of a Foreign State shall be deemed to be within the jurisdiction of such Foreign State.

15. In this Order in Council the term "fugitive criminal" means any person accused of any crime committed either before or after the date of this Order in Council, which, if committed in England or within English jurisdiction, would be one of the crimes described in the Schedule to this Order in Council; and the term "fugitive criminal of a State" means a person accused of any such crime as aforesaid committed within the jurisdiction of that State; and the term "Governor" means the person for the time being administering the Government of Straits Settlements; and words in the masculine gender include the feminine.

16. Every person who is accused of having counselled, procured, commanded, aided, or abetted the commission of any such crime as aforesaid, or of being accessory before or after the fact to any such crime, shall be deemed, for the purposes of this Order in Council, to be accused of having committed such crime.

certified under the hand of a Judge, Magistrate, or Officer of the Foreign State where the same were taken to be the original depositions, statements, or affirmations or to be true copies thereof, as the case may require, and if they are authenticated by the oath of some witness, or by being sealed with the official seal of some Minister of State; and all Courts of Justice and Magistrates in the Straits Settlements shall take judicial notice of such official seal.

9. The Magistrate before whom a fugitive criminal shall be brought in pursuance of this Order in Council shall, if such evidence is produced as would, according to the law of the Straits Settlements, justify the committal for trial of the fugitive criminal, if the crime of which he is accused had been committed in the Straits Settlements, commit him to some prison in the Straits Settlements, but otherwise shall order him to be discharged. If the Magistrate commits the fugitive criminal to prison, he shall inform such fugitive criminal that he will not be surrendered until after the expiration of fifteen days, and that during such fifteen days he may appeal to any Judge of the Supreme Court of the Straits Settlements.

10. Every Magistrate who shall commit a fugitive criminal to prison under this Order in Council shall forthwith report the result of his proceedings to the Governor, together with any remarks which he may deem it necessary or proper to make upon the case, and together with a copy of all depositions and documents used before him.

11. Upon receipt of a Magistrate's report of the committal of a fugitive criminal under the provisions of this Order in Council, the Governor may, after the expiration of fifteen days from the date of committal, or after the decision of the Judge before whom the appeal of the fugitive criminal is brought, as the case may be, or after such further period as may be allowed in either case by the Governor by warrant under his hand and seal, order the fugitive criminal to be surrendered to such person as may, in his opinion, be duly authorised to receive the fugitive criminal by the Foreign State from which the requisition for his surrender proceeded, and such fugitive criminal shall be surrendered accordingly: Provided always that no fugitive criminal shall be surrendered under this Order in Council: if (1) the offence in respect of which his surrender is demanded is of a political character, or if it is shown to the satisfaction of the Governor that the requisition for his surrender has been made with a view to try or punish him for an offence of a political character, nor (2), unless provision is made by the law of the State from which the requisition for his

of the crime charged, the name or designation (if the name be not known), and any other description that may be thought necessary of the fugitive criminal, and shall require the Magistrate to whom it shall be directed, or any of them, to inquire into the truth of the charge and proceed in pursuance of this Order in Council.

3. The order for inquiry shall be a sufficient proof of the requisition having been made, and a sufficient justification for all acts done in pursuance thereof, and upon production thereof, to the Magistrate to whom it is directed he shall have the same powers as if the crime charged had been committed within his jurisdiction.

4. If the evidence adduced shall be such as would in the opinion of the Magistrate justify the apprehension of the fugitive criminal named or designated in the order, if the crime charged had been committed within his jurisdiction, he shall issue his warrant for the apprehension of the fugitive criminal. The warrant shall be issued in the same manner as if the crime charged had been committed within the jurisdiction of the Magistrate issuing it, and shall contain a memorandum stating that it is issued under this Order in Council.

5. Every warrant for the apprehension of a fugitive criminal issued under this Order in Council may be executed in any part of the Straits Settlements.

6. A fugitive criminal apprehended on a warrant issued under this Order in Council shall be forthwith brought before a Magistrate within whose jurisdiction he shall be apprehended, and such Magistrate shall deal with the case in the same manner as if the fugitive criminal were charged with an indictable offence committed within his jurisdiction.

7. If any fugitive criminal shall, in pursuance of this Order in Council, be brought before a Magistrate other than the Magistrate who issued the warrant for his apprehension, the depositions and documents upon which the warrant was issued, or copies thereof certified under the hand of the Magistrate by whom the warrant was issued, shall, upon the requisition of the Magistrate before whom the fugitive criminal shall be brought, be forwarded to such last-mentioned Magistrate.

8. Depositions, statements on oath, or affirmations taken in a Foreign State, and copies of such original depositions or statements on oath or affirmation may, if duly authenticated, be received in evidence in proceedings under this Order in Council. Such depositions, statements, or affirmations and copies thereof shall be deemed to be duly authenticated for the purposes of this Order in Council if they purport to be

AT THE COURT AT WINDSOR,

The 26th day of June, 1879.

PRESENT.

THE QUEEN'S MOST EXCELLENT MAJESTY

HIS ROYAL HIGHNESS PRINCE LEOPOLD

LORD PRESIDENT

LORD PRIVY SEAL

SIR MICHAEL E. HICKS-BEACH, BART.

WHEREAS by the second section of an Act passed in the Session of the 29th and 30th years of Her Majesty's Reign, Chapter 115, entitled "An Act to provide for the Government of the Straits Settlements," it is enacted that it shall be lawful for Her Majesty, by Order or Orders in Council to be by Her from time to time made, with the advice of Her Privy Council, to establish all such laws, institutions, and ordinances, and to constitute such Courts and officers, and to make such provisions and regulations for the proceedings in such courts, and for the administration of justice, and for the raising and expenditure of the public revenue as may be deemed advisable for the peace, order, and good government of Her Majesty's subjects and others within the said Settlements, or within any territory which may at any time be part of or dependent upon the same, any law, statute, or usage to the contrary in any-wise notwithstanding:

And whereas it is expedient to provide for the surrender by the Governor of the said Settlements to Foreign States, in the case of which the Extradition Act, 1870, does not apply, of persons accused of the commission of certain crimes within the jurisdiction of such States:

Now, Therefore, it is hereby ordered by Her Majesty, by and with the advice of Her Privy Council, as follows:—

1. If requisition be made to the Governor of the Straits Settlements by any Foreign State in the case of which the Extradition Act, 1870, does not for the time being apply, or by any person recognized by him as an authorized Minister or Officer, Consul, or Vice-Consul of such State for the surrender of a fugitive criminal of such State who is or is suspected of being in any part of the Straits Settlements, the Governor may issue an order under his hand and seal to any Magistrate of the said Settlements directing him to inquire into the truth of the charge.

2. Every such order for inquiry shall signify that the requisition for surrender has been made, shall state the nature

(a.) Any warrant duly endorsed or issued, nor anything duly done or suffered before the commencement of this Act; nor (b.) Any obligation or liability incurred under an enactment hereby repealed; nor (c.) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment hereby repealed; nor (d.) Any legal proceeding or remedy in respect of any such warrant, obligation, liability, penalty, forfeiture, or punishment as aforesaid: and any such warrant may be endorsed and executed, and any such legal proceeding and remedy may be carried on, as if this Act had not passed.

SCHEDULE.

Year and Chapter.	Title.
6 & 7 Vict. c. 34.	An Act for the better apprehension of certain offenders.

and includes the governor and lieutenant governor of any part of India :

The expression "constable" means, out of England, any police-man or officer having the like powers and duties as a constable in England.

The expression "Magistrate" means, except in Scotland, "Magistrate."

any justice of the peace, and in Scotland means a sheriff or sheriff substitute, and in the Channel Islands, Isle of Man, and a British possession means any person having authority to issue a warrant for the apprehension of persons accused of offences and to commit such persons for trial :

The expression "offence punishable on indictment" means, "Offences punishable on indictment," as regards India, an offence punishable on a charge or otherwise :

The expression "oath" includes affirmation or declaration "Oath."

in the case of persons allowed by law to affirm or declare instead of swearing, and the expression "swear" and other words relating to an oath or swearing shall be construed accordingly :

The expression "deposition" includes any affidavit, affirmation, or statement made upon oath as above defined : "Deposition," "Superior court."

The expression "superior court" means :

(1.) In England, Her Majesty's Court of Appeal and High Court of Justice ; and

(2.) In Scotland, the High Court of Justiciary ; and In Ireland, Her Majesty's Court of Appeal and Her Majesty's High Court of Justice at

Dublin ; and

(4.) In a British possession, any court having in that possession the like criminal jurisdiction to that which is vested in the High Court of Justice in England, or such court or judge as may be determined by any Act or ordinance of that possession.

40. This Act shall come into operation on the first day of Commencement of Act. January one thousand eight hundred and eighty-two, which date is in this Act referred to as the commencement of this Act.

41. The Act specified in the Schedule to this Act is hereby Repeal of Act repealed as from the commencement of this Act : in Schedule.

Provided that this repeal shall not affect—

And whereas it is expedient to provide for the surrender by the Governor of the said Settlements to such Foreign States as aforesaid of persons convicted of the commission of certain crimes within the jurisdiction of such States, and otherwise to amend the said Order in Council.

Now, therefore, it is hereby ordered by Her Majesty by and with the advice of Her Privy Council as follows:—

I. In the said Order in Council of the 26th day of June 1879, (hereinafter referred to as the principal Order) and in this Order in Council,

- (1) The term “fugitive criminal” includes any person convicted of any crime committed either before or after the date of the principal Order, which, if committed in England, or within English jurisdiction would be one of the crimes described in the Schedule to the principal Order, or of having counselled, procured, commanded, aided, or abetted the commission of, or of being accessory before or after the fact, to any such crime as aforesaid.
- (2) The term “fugitive criminal of a State” includes a person convicted of any such crime as aforesaid, or of having counselled, procured, commanded, aided or abetted the commission of or of being accessory to any such crime as aforesaid, committed within the jurisdiction of that State.
- (3) With reference to each of the Malayan States under the protection of the British Government, the terms “fugitive criminal” and “fugitive criminal of a State” include any person accused or convicted of a breach of a contract of service, to be performed within the jurisdiction of such State committed either before or after the date of the principal Order within the jurisdiction of such State which, if it had been committed in the Straits Settlements, and the contract broken had been a contract to be performed in the Straits Settlements would have been punishable under the law of the said Settlements with imprisonment or with fine, and with imprisonment in default of payment of such fine.
- (4) The word “crime” includes any such breach of contract as aforesaid committed within the jurisdiction of any of the said protected States.
- (5) The word “charge” includes “conviction.”
- (6) The term “the crime charged” includes the crime of

which the fugitive criminal is alleged to have been convicted.

- (7) The terms "conviction" and "convicted" do not include or refer to a conviction, which under foreign law is a conviction for contumacy, but the term "accused" includes a person convicted for contumacy.

II. Foreign certificates of or judicial documents stating the fact of a conviction, may if duly authenticated be received in evidence in proceedings under the principal Order as amended by this Order and such certificates or judicial documents shall be deemed to be duly authenticated for the purposes of the principal Order as amended by this Order, if they purport to be certified by a Judge, Magistrate, or Officer of the Foreign State where the conviction took place, and if they are authenticated by the oath of some witness or by being sealed with the official seal of some Minister of State and all Courts of Justice and Magistrates in the Straits Settlements shall take judicial notice of such official seal.

III. The Magistrate before whom a fugitive criminal alleged to have been convicted as aforesaid is brought in pursuance of the principal Order as amended by this Order, shall if such evidence is produced as subject to the provisions of the principal Order as amended by this Order would according to the law of the Straits Settlements prove that the prisoner was so convicted commit him to prison but otherwise shall order him to be discharged.

IV. The Magistrate before whom a fugitive criminal of any of the said protected States accused of any such breach of contract as aforesaid shall be brought in pursuance of the principal Order as amended by this Order shall if such evidence is produced as (subject to the provisions of the principal Order as amended by this Order) would according to the law of the Straits Settlements have justified the committal for trial of the fugitive criminal if the breach of contract of which he is accused had been an indictable offence and had been committed in the Straits Settlements commit him to some prison in the Straits Settlements but otherwise shall order him to be discharged.

V. Whenever a Magistrate commits a fugitive criminal to prison in pursuance of either the 3rd or the 4th clause of this Ordinance he shall inform such fugitive criminal that he will not be surrendered until after the expiration of fifteen days and that during such fifteen days he may appeal to any Judge of the Supreme Court of the Straits Settlements.

VI. Any person who is committed to prison under the 9th

clause of the principal Order or under the 3rd or 4th clause of this Order may within fifteen days from the date of such committal appeal against such committal to a Judge of the Supreme Court of the Straits Settlements and such Judge shall upon hearing such appeal either affirm the order of committal or order the appellant to be discharged from prison in which latter case no order shall be made for his surrender to the Foreign State from which the requisition for his surrender proceeded.

VII. This Order and the principal Order shall be read and construed as one Order in Council.

C. L. PEEL.

AT THE COURT AT WINDSOR,

The 29th day of November 1884.

PRESENT :

THE QUEEN'S MOST EXCELLENT MAJESTY

LORD PRESIDENT	EARL GRANVILLE
LORD STEWARD	MR. CAMPBELL-BANNERMAN

WHEREAS by Orders in Council dated respectively the 26th day of June, 1879, and the 31st day of December, 1883, provision has been made for the surrender by the Governor of the Straits Settlements to Foreign States in the case of which the Extradition Act, 1870, does not apply of persons accused or convicted of the commission of certain crimes within the jurisdiction of such States which persons are in the said Orders and in this Order designated as fugitive criminals of such States :

And whereas it is expedient that the Governor of the Straits Settlements should have absolute discretion as to the exercise of the powers conferred upon him by the said Orders :

NOW, THEREFORE, it is hereby ordered by Her Majesty, by and with the advice of Her Privy Council, as follows :—

1. The Governor of the Straits Settlements shall not be bound to comply with a requisition for the surrender of a fugitive criminal under the said Orders, but may at his absolute discretion either comply with any such requisition in accordance with the provisions of the said Orders with or without conditions, or refuse to comply therewith.

2. This Order and the said Orders of the 26th day of June, 1879, and the 31st of December, 1883, shall be read and construed as one Order in Council.

C. L. PEEL.

[37 & 38 VICT.]—COURTS (STRAITS SETTLEMENTS)—[CH. 38.]

CHAPTER 38.

An Act to extend the Jurisdiction of Courts of the Colony of the Straits Settlements to certain Crimes and Offences, committed out of the Colony.

[30TH JULY, 1874.]

WHEREAS crimes and offences have been, and are committed against the person and property of the inhabitants and others in territories in the neighbourhood of the Colony of the Straits Settlements by subjects of Her Majesty, and by others resident in the said Colony at the time or within a short time before the commission of such crimes and offences, and it is expedient to provide for the trial and punishment of such persons, when found in the said Colony, for such crimes and offences: Be it enacted by the Queen's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. Crimes and offences committed out of the said Colony of the Straits Settlements at any place in the Malayan Peninsula, extending southward from the ninth degree of north latitude, or in any island lying within twenty miles from the coast thereof, by any of Her Majesty's subjects, or by any person being a subject of any of the Native States in the said peninsula south of the said ninth degree of north latitude, but who is at the time of his committing such crime or offence resident in the said Colony, or who has been so resident within six months before the commission of such crime or offence, shall be cognizable in the Courts of the said Colony exercising criminal jurisdiction, and shall be inquired of, tried, prosecuted, and upon conviction, punished in such, and the same manner as if the crime or offence had been committed within the said Colony.

2. Any person known or suspected to have committed a crime or offence within the first section of this Act, may be apprehended in the said Colony, and kept in custody therein in like manner as if the said crime or offence had been committed within the Colony.

APPENDIX.

(A)

*Form of Governor's Order to Magistrate under the Extradition
Acts 1870 and 1873.*

By His Excellency

Governor and Commander-in-Chief of the Colony
of the Straits Settlements.

To the First Magistrate at the Settlement of
and all other Magistrates of the said Settlement.

WHEREAS in pursuance of the provisions of the Imperial Extradition Acts, 1870 and 1873, a requisition has been made to me,
by

for the surrender of

accused (*or* convicted) of the commission of the crime of

within the jurisdiction of

Now I hereby by this my Order under my hand and seal, signify to you that such requisition has been made, and require you to issue your Warrant for the apprehension of such fugitive, provided that the conditions of the Extradition Act, 1870, relating to the issue of such Warrant, are in your judgment complied with.

Given under the hand and seal of the undersigned, Governor of the Straits Settlements,
this day of
one thousand eight hundred and eighty-

(*B*)

*Form of Warrant of Apprehension by Order of the Governor
under the Extradition Acts 1870 and 1873.*

Settlement of { To the Inspector-General of Police for the
 { Colony of the Straits Settlements and to all other
to Wit. { Peace Officers of the Settlement of

WHEREAS His Excellency Governor
and Commander-in-Chief of the Colony of the Straits Settlements,
by order under his hand and seal, hath signified to me that requisition hath been duly made to him and surrender of
late of , accused (or convicted) of the commission of
the crime of within the Jurisdiction of
This is therefore to command you in Her Majesty's name forthwith
to apprehend the said , pursuant to the Extradition
Acts 1870 and 1873 whenever he may be found in the Straits
Settlements and bring him before me or some other Magistrate of
Police sitting in the Court to show cause why he should not be
surrendered in pursuance of the said Extradition Acts for which
this shall be your Warrant.

Given under my hand and seal at

this day of , 18

Magistrate of Police.

Settlement of { To the Inspector-General of Police for the
 { Colony of the Straits Settlements and to all other
 to Wit. { Peace Officers of the Settlement of

This is therefore to command you in Her Majesty's name forthwith to apprehend the said _____ and to bring him before me or some other Magistrate of Police sitting at this Court to be further dealt with according to law, for which this shall be your Warrant.

this day of , 18 .

Magistrate of Police.

(D.)

Form of Warrant of Committal.

Settlement of } To the Superintendent of Police
 to Wit. } and to the Superintendent of Prisons

BE it remembered that on this day of
 in the year of our Lord late of
 is brought before me a Police Magistrate for the
 Settlement of to show cause why he should not be
 surrendered in pursuance of the [Extradition Acts 1870 and 1873,
 Fugitive Offenders Act 1881 or Orders in Council as the case may
 be] on the ground of his being accused (or convicted) of the
 commission of crime of within the jurisdiction of
 , and for as much as no sufficient cause has been
 shown to me why he should not be surrendered in pursuance of the
 said Acts [or Orders in Council]
 This is therefore to command you the said Superintendent of
 Police in Her Majesty's name forthwith to convey and deliver
 the body of the said into the custody of the said Super-
 intendent of Prisons at and you the said Super-
 intendent of Prisons to receive the said within your
 custody, and him there safely to keep until he is thence delivered
 pursuant to the provisions of the said Acts [or Orders in Council,]
 for which this shall be your Warrant.

(Given under my hand and seal at the Police Court

 this day of
 , 18 .

Magistrate of Police.

(E.)

Form of Endorsement under the Fugitive Offender's Act 1881.

I hereby authorize all or any of the following persons, viz :

and the within named

and also every Police Constable to execute the within warrant within the Straits Settlements by apprehending the person named therein and bringing him before some Magistrate within the said Settlements.

(Signed)

(F.)

Form of Governor's Warrant for surrender of Fugitive under the Fugitive Offender's Act 1881.

To

and

to the Superintendent of Prisons at

I,

Governor and Commander-in-Chief of the Colony

of the Straits Settlements do hereby order that

a fugitive from

be returned to

aforesaid under

the provisions of the Fugitive Offender's Act 1881, and that he be

delivered into the custody of the said

and

or some one or more of them and he held in custody and conveyed

by sea or otherwise to

aforesaid to be dealt with there in due course of law as if he had been there apprehended for which this shall be your Warrant.

Given under my hand this day of , 188 .

(Signed.)

(G.)

*Form of Governor's Order to Magistrate under the Orders
in Council.*

To the First Magistrate of the Settlement of
and all other Magistrates of the said Settlement.

WHEREAS in pursuance of the provisions of the Orders of Her Majesty in Council dated respectively the 26th day of June, 1879, the 31st day of December, 1883, and the 29th day of November, 1884, a requisition has been made to me, Governor and Commander-in-Chief of the Colony of the Straits Settlements, by
for the surrender of
accused (*or* convicted) of the commission of the crime of
within the jurisdiction of

Now I hereby direct and require you or one of you to enquire into the truth of the said charge and to proceed in pursuance of the said Orders in Council.

Given under the hand and seal of the undersigned
the Governor and Commander-in-Chief of the Colony
of the Straits Settlements, this
day of , 188 .

(H.)

*Form of Magistrate's Warrant upon receipt of the Governor's
Order under the Orders in Council.*

(Orders of Her Majesty in Council dated respectively 26th June,
1879, 31st December, 1883, and 29th November, 1884.)

To Wit. } To the Inspector-General of Police for the Colony of
the Straits Settlements and to all other Peace Officers
of the Settlement of

WHEREAS His Excellency

Governor and Commander-in-Chief of the Colony of
the Straits Settlements, by Order under his hand and
Seal has signified to me that a requisition has been duly
made to him for the surrender of
late of

accused (or convicted) of the commission of the crime
of in the said

and has directed

and required me to enquire into the truth of the said
charge and to proceed in pursuance of the Orders of
Her Majesty in Council dated respectively the 26th
day of June, 1879, the 31st day of December, 1883,
and the 29th day of November, 1884 :

This is therefore to command you in Her Majesty's
name forthwith to apprehend the said

and bring him before me or some other

Magistrate sitting at this Court to be further dealt with according to law, for which this shall be your Warrant.

Given under my hand and Seal at the Police Court
at this day of
188 .

Magistrate of Police.

(I.)

*Form of Governor's Order for the surrender of an accused person
under the Extradition Acts 1870 and 1873, or the Orders
in Council.*

To the Keeper of Her Majesty's Prison at
and to

Whereas

late of _____ accused (*or* convicted) of the commission of the
crime of _____ within the jurisdiction of _____
_____ was delivered into the
custody of you

the Keeper of Her Majesty's Prison at
by Warrant dated
pursuant to [the Orders of Her Majesty in Council dated respec-
tively the 26th day of June, 1879, the 31st day of December, 1883
and 29th day of November, 1884, or the Extradition Acts 1870
and 1873]:

Now I do hereby, in pursuance of the said [Orders *or* Acts]
direct you the said Keeper to deliver the body of the said

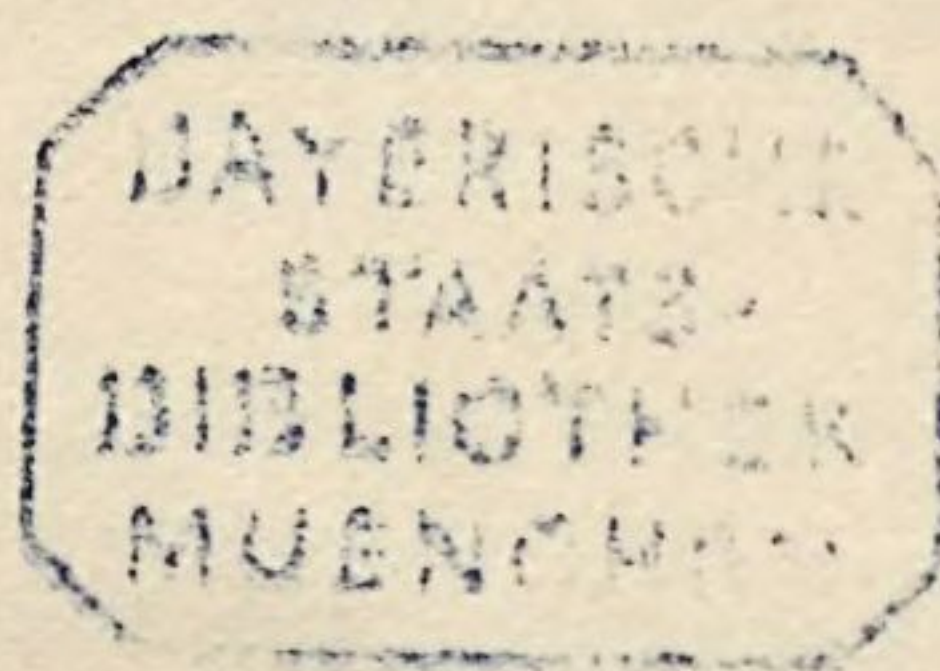
into the custody of the said
and I authorize you the said
to receive the said

into your custody and to convey him within the jurisdiction of the
said and there place him in

the custody of any person or persons appointed by the said

to receive him, for which this shall be your Warrant.

Given under the hand and seal of the undersigned
Governor and Commander-in-Chief of the Colony of the Straits
Settlements, this day of 18 .



AT THE COURT AT WINDSOR,

The 12th day of December, 1885.

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

WHEREAS by reason of the contiguity of the group of British Possessions hereinafter mentioned, and the frequent intercommunication between those possessions, it seems expedient to Her Majesty and conducive to the better administration of justice therein, to apply Part II of the Fugitive Offenders Act, 1881, thereto.

Now, therefore, Her Majesty, by virtue of the powers in this behalf by the Fugitive Offenders Act, 1881, or otherwise vested in Her Majesty, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered as follows :—

1. On and after the 1st day of July 1886, Part II of the Fugitive Offenders Act, 1881, shall apply to the group of British possessions hereunder mentioned ; that is to say :—

Her Majesty's East Indian Territories.

Ceylon.

The Straits Settlements.

2. The Governor-General of India and the Governors of Ceylon and the Straits Settlements shall cause this Order to be proclaimed in the Territories and Colonies under their respective Governments.

And the Right Honourable Lord Randolph Churchill, and The Right Honourable FREDERICK A. STANLEY, two of Her Majesty's Principal Secretaries of State, are to give the necessary directions herein accordingly.

C. L. PEEL.

AT THE COURT AT WINDSOR,

THE 12TH DAY OF DECEMBER, 1885.

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

WHEREAS by reason of the contiguity of the group of British

Possessions hereinafter mentioned, and the frequent intercommunication between those possessions, it seems expedient to Her Majesty and conducive to the better administration of justice therein, to apply Part II of the Fugitive Offenders Act 1881, thereto.

Now, therefore, Her Majesty, by virtue of the powers in this behalf by the Fugitive Offenders Act, 1881, or otherwise vested in Her Majesty, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. On and after the 1st day of July 1886, Part II of the Fugitive Offenders Act, 1881, shall apply to the group of British Possessions hereunder mentioned, that is to say:—

The Straits Settlements.

Hong Kong.

Labuan.

2. The Governors of the Straits Settlements, Hong Kong and Labuan shall cause this Order to be proclaimed in the Colonies under their respective Governments.

And the Right Honourable FREDERICK A. STANLEY, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

C. L. PEEL.

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Manual of extradition

Singapore 1885

J.publ.e. 568 k

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